

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
MACON DIVISION**

ROBERT CARSWELL,

Petitioner,

vs.

Warden BARBARA WALRATH,

Respondent.

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Civil Action No. 5:10-CV-487 (CAR)

RESPONSE OF THE UNITED STATES ATTORNEY FOR THE
MIDDLE DISTRICT OF GEORGIA TO THE PETITIONER’S MOTION
FOR AN EVIDENTIARY HEARING FOUND AT DOCKET ENTRY 14

COMES NOW, the United States Attorney for the Middle District of Georgia
(hereinafter “US Attorney”) and responds to the Petitioner’s Motion for an Evidentiary Hearing.

PREFACE

The US Attorney incorporates herein by reference thereto the jurisdictional, procedural and substantive defenses he set out in his Response to Petition for Habeas Corpus. Among other things, thereunder he does not admit to being a party or to there being a party he can defend against which relief of any kind may be granted. Therefore, hereby he does not make any kind of appearance by or as the United States or any of its officers or agencies, and does not subject himself, the United States, or any officers or agencies of the United States to the jurisdiction and venue of this Court. Additionally, neither the US Attorney nor any actual party was served with the Motion so the US Attorney denies any need or obligation to respond.

FIRST DEFENSE

By virtue of filing his Answer to Petitioner’s habeas corpus petition without being able to do so on behalf of a responsible client-respondent, the US Attorney is not to be on the Pacer

distribution list, he understands, necessitating that he periodically check the docket in the case to guard against something occurring about which he's not informed but of which he needs to be aware. Although Petitioner's Motion dealt with herein does not fall into that category, it was because of check of the docket that it was revealed. The US Attorney did not receive service or notification of the Motion by mail, as is claimed in the certificate pertaining thereto.

SECOND DEFENSE

Stating the obvious, the "party" who or which would be involved in the hearing sought by the Petitioner would be the above-named Warden, who the US Attorney does not represent so there's been no service whatever on a Respondent. Moreover, charitably interpreting the Motion as actually stating what would be addressed in any such hearing, the above-named Warden would not be properly involved for lack of capacity or authority to deal with any such issues.

THIRD DEFENSE

Petitioner's Motion is therefore another instance of a clueless attempt to abuse the Court and the US Attorney and as such states no claim upon which relief may be granted. Indeed, the US Attorney cannot discern just what it is the Motion seeks to achieve.

FOURTH DEFENSE

None of the claims and allegations in the Motion make sense and they are therefore summarily denied.

FIFTH DEFENSE

Assuming, without conceding, that there is somewhere in the Motion a legitimate basis for asking for a hearing, Petitioner's entitlement to a hearing is nevertheless denied because there are no facts on any issue before the Court which need to be presented.

WHEREFORE, having responded, the US Attorney prays that the Motion be denied.

MICHAEL J. MOORE
UNITED STATES ATTORNEY

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Certificate of Service

I, Stewart R. Brown, Assistant United States Attorney, hereby certify that on the 1st day of March, 2011, I electronically filed the within and foregoing Response to Petitioner's Motion for An Evidentiary Hearing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following: n/a.

I also certify that I have mailed by the United States Postal Service the document and a copy of the Notice of Electronic Filing to the following non-CM/ECF participants:

Robert Carswell REG84866-020
Irwin County Detention Center
132 Cotton Drive
Ocilla, Ga. 31774

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